

The Customer's attention is particularly drawn to the provisions of clause 13 (Limitation of liability).

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

Additional Terms: means any additional terms which may apply to the sale of Goods or Services from time to time.

Business Day: a day other than a Saturday, Sunday or public holiday in England and Wales, when banks in London are open for business.

Business Hours: the period from 9.00 am to 5.00 pm on any Business Day.

Commencement Date: has the meaning given in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 17.8.

Contract: the contract between the Supplier and the Customer for the supply of Goods or Services or Goods and Services in accordance with these Conditions.

Customer: the person or firm who purchases the Goods or Services or Goods and Services from the Supplier.

Deliverables: means the deliverables set out in the Order which are required to be provided as part of the Services.

Force Majeure Event: has the meaning given to it in clause 16.

Goods: the goods (or any part of them) set out in the Order.

Goods Specification: any specification for the Goods, including any relevant plans or drawings, that is agreed by the Customer and the Supplier.

Order: the Customer's order for the supply of goods or Services or goods and Services, as set out in the Customers purchase order form, or the Customers written acceptance of the Supplier's quotation.

Services: the services supplied by the Supplier to the Customer as set out in the Order.

Services Specification: the description or specification of the Services provided by the Supplier to the Customer.

Supplier: European Airline Solutions Ltd registered in England and Wales with company number 11550006.

Warranty Period: in relation to any Goods shall mean the warranty period provided by the manufacturer of the Goods which is capable of assignment.

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its permitted assigns.
- (c) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- (d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.
- (e) A reference to **writing** or **written** excludes fax but not email unless otherwise stated herein these Conditions

2. Basis of contract

- 2.1 The Order constitutes an offer by the Customer to purchase Goods and Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point the Contract shall come into existence (the **Commencement Date**).
- 2.3 Any samples, drawings, descriptive matter, or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues, brochures, website or otherwise are issued or published for the sole purpose of giving an approximate idea of the Goods and Services described in them. They shall not form part of the Contract nor have any contractual force.
- 2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.5 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 20 Business Days from the date of its issue.
- 2.6 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.
- 2.7 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.
- 2.8 The Customer shall adhere to any Additional Terms which are provided by the Supplier to the Customer from time to time in circumstances where

1.2 Interpretation:

the Supplier is required to adhere to such additional terms with its suppliers, which relate to the Goods and / or Services being supplied to the Customer. 4.5

3. Goods

3.1 The Goods are described in the Goods Specification. The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event.

3.2 To the extent that the Goods are to be manufactured in accordance with a Goods Specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any claim made against the Supplier for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with the Supplier's use of the Goods Specification. This Clause 3.2 shall survive termination of the Contract.

3.3 If the Supplier is the subject of a request, court order or other directive of a governmental or regulatory authority to withdraw any Goods from the market (Recall Notice) it shall immediately notify the Customer in writing enclosing a copy of the Recall Notice. 4.7

3.3 Unless required by law, the Customer may not undertake any recall or withdrawal without the written permission of the Supplier and only then in strict compliance with the Supplier's instructions as to the process of implementing the withdrawal. 5.1

4. Delivery of Goods

4.1 The Supplier shall ensure that each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the type and quantity of the Goods and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered. 5.2

4.2 The Supplier shall use their reasonable endeavours to deliver Goods to the location set out in the Order. 5.3

4.3 Delivery of the Goods shall be EXW (Incoterms 2020) unless stated otherwise in the Order. 6.1

4.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event, a third party outside of the control of the Supplier or the Customer's failure to provide the Supplier with adequate delivery 6.2

instructions or any other instructions that are relevant to the supply of the Goods.

If the Customer fails to take delivery of the Goods within three Business Days of the Supplier notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:

(a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and

(b) the Supplier shall store the Goods until actual delivery takes place, and charge the Customer for all related storage charges, costs and expenses (including insurance).

4.6 If ten Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery the Customer has not accepted actual delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting storage and selling costs, charge the Customer for any shortfall below the price of the Goods.

4.7 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

5. Quality of Goods

5.1 The Supplier warrants and represents that it shall assign all manufacturers warranties which relate to the Goods, and which are capable of assignment to the Customer.

5.2 The Supplier shall not be liable for (i) the Goods failing to meet the terms of the warranty; or (ii) any damage to property caused by the Goods; unless the damage to Goods or property is directly caused by the Supplier's gross negligence or wilful misconduct.

5.3 The Supplier shall use reasonable endeavours to assist the Customer to enforce the terms of the warranty that has been assigned to the Customer during the Warranty Period.

6. Title and risk

6.1 The risk in the Goods shall pass to the Customer on completion of delivery.

6.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods, in which case title to the Goods shall pass at the time of payment.

6.3 Until title to the Goods has passed to the Customer, the Customer shall:

- (a) not remove, deface or obscure any identifying mark relating to the Goods;
- (b) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery; and
- (c) notify the Supplier immediately if it becomes subject to any of the events listed in clause 14.3(b) to clause 14.3(d).

6.4 At any time before title to the Goods passes to the Customer, the Supplier may:

- (a) by notice in writing, terminate the Customer's right use them in the ordinary course of its business; and
- (b) require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them;

if the Customer has failed to pay for the Goods by the due date for payment.

7. Supply of Services

7.1 The Supplier shall supply the Services in accordance with the Services Specification In all material respects.

7.2 The Supplier shall use all reasonable endeavours to meet any performance dates for the Services agreed in writing between the parties, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

7.3 The Supplier reserves the right to amend the Service Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

7.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

8. Customer's obligations

8.1 The Customer shall:

- (a) ensure that the terms of the Order and any information it provides in both the Service Specification and the Goods Specification are complete and accurate in all respects;
- (b) co-operate with the Supplier in all matters relating to the Services;
- (c) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as

reasonably required by the Supplier to provide the Services, including the provision of airside access and insurance if required;

- (d) provide the Supplier with such information and access to the premises as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- (e) comply with all applicable laws; and
- (f) comply with any additional obligations as set out in the Order.

8.2 If the Supplier's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer (or its agents, subcontractors, consultants or employees, or the failure by the Customer to perform any relevant obligation (**Customer Default**), the Supplier shall:

- (a) without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
- (b) not be liable for any costs, charges or losses sustained or incurred by the Customer that arise directly or indirectly from such prevention or delay;
- (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default; and / or
- (d) be entitled to payment of the charges despite any such prevention or delay.

9. Charges and payment

9.1 The price for Goods:

- (a) shall be the price set out in the Order or, if no price is quoted, the price set out in the Supplier's published price list as at the date of the Order;
- (b) Shall be exclusive of all costs and charges of packaging, insurance, transport of the Goods (if applicable) which shall be invoiced to the Customer.

9.2 The charges for Services shall with either be on a fixed fee basis, and set out in the Order, or if charges are not quoted, Services shall be charged in accordance with the Supplier daily fee rates which apply from time to time.

9.3 In respect of Goods, the Supplier shall invoice the Customer on or at any time after acceptance of the Order. In respect of Services, the Supplier shall invoice the Customer monthly in arrears, unless otherwise stated on the Order.

9.4 The Customer shall pay each invoice submitted by the Supplier:

- (a) within 7 days of the date of the invoice;

- (b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and time for payment shall be of the essence of the Contract.
- 9.5 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- 9.6 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 14, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 9.6 will accrue each day at 8% a year above the Bank of England base rate from time to time, but at 8% a year for any period when the base rate is below 0%.
- 9.7 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 10. Intellectual property rights**
- 10.1 All Intellectual Property Rights in or arising out of or in connection with the Services and the Deliverables (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier.
- 11. Data protection**
- 11.1 The parties will process personal data in accordance with their respective privacy policies.
- 12. Confidentiality**
- 12.1 Each party undertakes that it shall not at any time during the Contract, and for a period of two years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by clause 12.2.
- 12.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives, contractors or subcontracts or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 12; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 12.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 13. Limitation of liability**
- 13.1 The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange, and the Customer is responsible for making its own arrangements for the insurance of any excess liability.
- 13.2 References to liability in this clause 13 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 13.3 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation; and
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 13.4 Subject to **Error! Bookmark not defined.** and 13.5, the Supplier's total liability to the Customer shall not exceed the value of the Order under which the breach relates to.
- 13.5 This clause 13.5 sets out specific heads of excluded loss:
- (a) The following types of loss are wholly excluded:
- (i) loss of profits;
- (ii) loss of sales or business;
- (iii) loss of agreements or contracts;
- (iv) loss of anticipated savings;
- (v) loss of use or corruption of software, data or information;
- (vi) loss of or damage to goodwill; and
- (vii) indirect or consequential loss.
- 13.6 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 13.7 This clause 13 shall survive termination of the Contract.

14. Termination

14.1 Without affecting any other right or remedy available to it, either party may terminate the Contract for Services by giving the other party not less than the notice set out in the Order.

14.2 The Contract for Goods may not be terminated or cancelled for convenience without the Suppliers consent.

14.3 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

(a) the other party commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;

(b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

(c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

(d) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

14.4 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if:

(a) the Customer fails to pay any amount due under the Contract on the due date for payment; or

(b) there is a change of Control of the Customer.

14.5 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 14.3(b) to clause 14.3(d), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

15. Consequences of termination

15.1 On termination of the Contract:

(a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services and Goods supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;

15.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

15.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.

16. Force majeure

Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control (a **Force Majeure Event**). The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for eight (8) weeks the party not affected may terminate the Contract by giving four (4) weeks' written notice to the affected party.

17. General

17.1 Assignment and other dealings

(a) The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

(b) The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier.

17.2 Notices.

(a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

(i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

(ii) sent by email to the following addresses as set out in the Order (or an address substituted in writing by the party to be served): .

(b) Any notice shall be deemed to have been received:

- (i) if delivered by hand, at the time the notice is left at the proper address;
 - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the fifth Business Day after posting; or
 - (iii) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 17.3 Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part provision of the Contract is deemed deleted under this clause 17.3 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.
- 17.4 Waiver.**
- (a) A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
 - (b) A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 17.5 No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 17.6 Entire agreement.**
- (a) The Contract constitutes the entire agreement between the parties.
 - (b) Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.
- 17.7 Third party rights.**
- (a) The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
 - (b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 17.8 Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).
- 17.9 Governing law.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 17.10 Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.